IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Bail Appl..No. 4883 of 2007()

CRIME NO.454/06 OF THE NILAMBUR POLICE STATION

PETITIONER/2ND ACCUSED

BASHEER, S/O.HAMSA, MADAMPATTA HOUSE, NATTUKAL, PALAKKAD DIST.

BY ADV. SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENTS: COMPLAINANT

STATE OF KERALA REP. BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,. ERNAKULAM REPRESENTING THE S.I.OF POLICE, NILAMBUR.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 4883 OF 2007

Dated this the 13th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner is the 2nd accused. The 1st accused is the Managing Director of a chitty company. It is contended that the accused had fraudulently induced the victims to part with money. The amounts due to them were not returned. The chitty company was closed and the liability to the subscribers remain undischarged. A crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He is only a paid employee. He had absolutely no fraudulent or deceitful motive. He was working as an honest employee discharging his duties. At any rate, the petitioner does not deserve to endure the trauma of undeserved arrest and detention.

Anticipatory bail may, in these circumstances, be granted to the petitioner, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor was requested to explain any specific conduct on the part of the petitioner which would convey that the petitioner, who admittedly was the Manager of the company, had also entertained mala fide and fraudulent motives. No specific instance has been brought to my notice. I am, in these circumstances, satisfied that subject to appropriate conditions, which would ensure the interests of a fair, efficient and expeditious investigation, the petitioner can be granted anticipatory bail.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 20/8/07. He shall be released on regular bail on his executing a bond for Rs.50,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 21/8/07 and 22/8/07 and thereafter on all Mondays

and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 20/8/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.50,000/- without any sureties undertaking to appear before the learned Magistrate on 20/8/07.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge